

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERNEST L. MADDUX,

Defendant-Appellant.

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UNPUBLISHED

January 6, 2004

No. 243038

Wayne Circuit Court

LC No. 01-007987-01

Before: Donofrio, P.J., and Griffin and Jansen, JJ.

PER CURIAM.

Following a nonjury trial, defendant was convicted of carrying a concealed weapon, MCL 750.227, attempted felonious assault, MCL 750.82; MCL 750.92, resisting and obstructing, MCL 750.479, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to concurrent terms of ten months to five years' imprisonment on the concealed weapons conviction and ten months to two years' imprisonment on the assault and resisting and obstructing convictions, to be served consecutively to the mandatory two-year term for the felony-firearm conviction. Defendant appeals as of right and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant raises two issues on appeal, both of which rely on the validity of the investigatory stop that led to the discovery of the weapon and his subsequent arrest.

Defendant first contends that the trial court erred in denying his motion to suppress evidence of the weapon because the police stopped and seized him without reasonable suspicion or probable cause.

This Court reviews a trial court's factual findings at a suppression hearing for clear error, but reviews the ultimate ruling on a motion to suppress de novo. *People v Marcus Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). The trial court's factual findings are clearly erroneous if, after review of the record, this Court is left with a definite and firm conviction that a mistake has been made. *People v Givans*, 227 Mich App 113, 119; 575 NW2d 84 (1997). The application of the exclusionary rule is a question of law that is reviewed de novo. *People v Custer*, 465 Mich 319, 326; 630 NW2d 870 (2001).

"The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches

and seizures.” *People v Kazmierczak*, 461 Mich 411, 417; 605 NW2d 667 (2000). An investigatory stop, which is limited to brief, nonintrusive detention, constitutes a Fourth Amendment seizure. *People v Bloxson*, 205 Mich App 236, 241, 249; 517 NW2d 563 (1994). A police officer may briefly stop and detain a person to investigate possible criminal activity if he has a reasonable suspicion based on specific and articulable facts that the person detained has committed or is committing a crime. *People v Shankle*, 227 Mich App 690, 693; 577 NW2d 471 (1998). The crime rate in a neighborhood is a factor to be considered in assessing reasonable suspicion, but does not alone justify an investigatory stop. *People v Shabaz*, 424 Mich 42, 60; 378 NW2d 451 (1985). Likewise, a person’s flight at the approach of the police may be considered, but is not determinative. *Id.* at 62.

The trial court found that the police were investigating an area known for narcotics activity. The police observed defendant standing at the driver’s side of a car which was stopped in the middle of the street. The police also observed a transaction in which the driver passed some money to defendant, who appeared to pass an unknown object to the driver. Then, the police activated their lights and siren. Defendant dropped the money and ran, tossing the bag of suspected narcotics in the process. Giving due deference to the trial court’s resolution of credibility of the witnesses, *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997), those findings, which were supported by the police officers’ testimony, were not clearly erroneous. The circumstances taken as a whole were sufficient to create a reasonable suspicion that defendant was engaged in a narcotics transaction and, thus, justified an investigatory stop. Therefore, the trial court properly denied defendant’s motion to suppress. Because the stop was not unlawful, we find no merit to defendant’s argument regarding the lawful arrest element of the resisting and obstructing charge.<sup>1</sup>

Affirmed.

/s/ Pat M. Donofrio  
/s/ Richard Allen Griffin  
/s/ Kathleen Jansen

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<sup>1</sup> Prearrest flight that actively interferes with a police officer’s investigation is sufficient to support a conviction of resisting and obstructing. *People v Pohl*, 207 Mich App 332, 333; 523 NW2d 634 (1994).